

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

999 18TH STREET- SUITE 300 DENVER, CO 80202-2466 EXPEDITED SETTLEMENT AGREEMENT

2007 MAY 14 PM 12: 57

Docket Number: CWA-08-2007-0009

Homeland Developers, Inc. ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to
Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has
jurisdiction over any "person" who "discharges pollutants" from a
"point source" to "waters of the United States." Respondent
neither admits nor denies the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Callie Videtich Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$3,500. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (thirty (30) days from the date it is signed by the Regional Judicial Officer), Respondent shall submit a bank, cashiers or certified check, with case name and docket number noted, for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 8 In the Matter of: Homeland Developers, Inc. Docket No.: CWA-08-2007-0009 PO Box 360859M Pittsburgh, PA 15251 NPDES No.NDR-101220

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act, violation of an Administrative Order, or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective when more than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Callie Videtich
Unit Chief
NPDES Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date: 1-4-07
David Janik
Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

APPROVED BY RESPONDENT:

Name

(print):

Title (print):

Signature:

Having determined that this Agreement is authorized by law,

IT IS SO ORDERED:

Date

5.14.07

Elyana Sutin

Regional Judicial Officer

Expedited Settlement Offer Worksheet

Deficiencies Form

Consult instructions regarding eligibility criteria and procedures prior to use

version 10.3.4



	LEGAL NAME AND MAILING ADDRESS OF OPERATOR	Telephone Number	NPDES Peri	mit Number	
1	Homeland Developers, Inc.	701-282-0066	NDR10-1220	0	
	P.O. Box 800 West Fargo, ND 58078 Dan Passolt	Inspector Name: Inspector Agency: Entrance Interview Co	Darcy O'Con US EPA	nnor No	
		Exit Interview Conduc		No	
	LOCATION AND ADDRESS OF SITE	Exit Interview given to):		
2	Elmwood Court Development	Exit Interview time:		Date:	
	West Fargo North Dakota				

ACILITY DESCRIPTION / CONTACT NAMES Name of Site Contact (ESO Worksheet recipient):	Eric Smith				_
Name of Authorized Official (40 CFR 122.22):	Dan Passolt				
Inspection Date:					
Start Construction Date:	5/14/2003				
Estimated Completion Construction Date:	12/31/2006				
Name of Receiving Water Body (Indicate whether 303(d) listed):	County Drain #21.	She	eyenne Rive	r	
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan	10				
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	No				

		PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficien- cies	-	Dollar Amount		Tota
3	-	Operator unpermitted formonths (#	Failure to obtain permit prior to ground	CWA 301	T	1	X	\$500.00	=	\$500
٦		months unpermitted equals number of violations)	disturbance.		1		Ш		1_	
	_									
	- 1	SWPPP REVIEW		1			-	AF 000 00		
4		SWPPP not prepared (If no SWPPP, leave		CGP 3.1.A		l .		\$5,000.00	-	
		elements 5 - 30 blank)			+-		V	\$75.00	_	
5		SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A			×	\$75.00		
6		SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc		CGP 3.1.B				\$250.00		1
7		SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A				\$500.00	=	
8		SWPPP does not have site description, as follows:	(F.)							
ł	Α	Nature of activity in description	1	CGP 3.3.B.1				\$100.00		
ł		Intended sequence of major activities		CGP 3.3.B.2				\$100.00	_	
1		Total disturbed acreage		CGP 3.3.B.3				\$100.00		
1	-	General location map	1	CGP 3.3.B.4				\$100.00	_	
ł	1.00	Site map	1	CGP 3.3.C				\$500.00	_	
		Site map does not show drainage patterns, slopes areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8		ě	X	\$50.00		
	G	Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D				\$500.00	=	
9		SWPPP does not:	1	CCD 2 4 A		WIND DATE OF	W (5)	\$750.00	-	
	Α	Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A				\$750.00		

	B Describe sequence for implementati	on	CGP 3.4.A	\$250.	00 =
	C Detail operator(s) responsible for im	plementation	CGP 3.4.A	\$250.	00 =
0	SWPPP does not describe interim s	tabilization	CGP 3.4.B	\$250.	00 =
11	SWPPP does not describe permane practices	ent stabilization	CGP 3.4.B	\$250.	00 =
12	SWPPP does not describe a schedu implement stabilization practices	ile to	CGP 3.4.B	\$250.	00 =
13	Following dates are not recorded: m activities; construction temporarily o ceased; stabilization measures initia each omission under 13 as 1 violation	r permanently ted (count	CGP 3.4.C.1-3	X \$250.	00 =
14	SWPPP does not have description of practices to divert flows from expose flows, or limit runoff from exposed a	ed soils, retain	CGP 3.4.D	\$500.	00 =
15	SWPPP does not have a description that will be installed during the consprocess to control pollutants in storr discharges that will occur AFTER operations have been completed	n of measures truction n water	CGP 3.4.E	\$500.	00 =
16	SWPPP does not describe measure discharge of solid materials to water except as authorized by 404 permit	s to prevent s of the US,	CGP 3.4.F	\$500.	00 =
17	SWPPP does not describe measure off-site vehicle tracking and general		CGP 3.4.G	\$500.	
18	SWPPP does not include description construction or waste materials explained as stored on site w/updates recontrol reduce pollutants from these materials	ected to be s used to	CGP 3.4.H	\$250.	
19		of pollutant truction ates re: controls	CGP 3.4.I	\$500.	00 =
20	SWPPP does not identify allowable storm water discharges listed in sul the CGP	sources of non opart 1.3.B of	CGP 3.5		.00 =
21		plementation r non-storm	CGP 3.5	\$500	
22		ation is not in	CGP 3.7	\$500	.00 =
23	Historic Properties (Reserved)			N	00 -
24	Copy of permit and/or NOI not in S each omission under 24 as 1 violat		CGP 3.8		.00 =
25	SWPPP is not consistent with requ specified in applicable sediment an plans or site permits, or storm wate plans or site permits approved by S local officials (e.g., MS4 requireme	d erosion site r management state, Tribal or	CGP 3.9	\$750	
26	SWPPP has not been updated to r consistent with changes applicable surface waters in State, Tribal or lo plans	to protecting	CGP 3.9	\$250	.00 =
27			CGP 3.10.G		0.00 =
28		or where as ineffective, ifications to uch inspection	CGP 3.11.C		0.00 =
29	Copy of SWPPP not retained on s		CGP 3.12.A CGP 3.12.C		0.00 =
	A SWPPP not made available upon SWPPP not signed/certified	nriequest	CGP 3.12.D		0.00 =

	INSPECTIONS							
31	Inspections not performed and documented either		CGP 3.10.A,	10	X	\$250.00	=	\$2,500
	once every 7 days, or once every 14 days and		3.10.B	100		10921100000		
	within 24 hours after storm event greater than 0.5	€	0.000.000.000					
	inches or greater (not required if: temp			- 1				
	stabilization; runoff unlikely due to winter			- 1				
	conditions; construction during arid periods in arid			- 1				
	areas) (Count each failure to inspect and			1				
	document as one violation).			- 1				
					++	T	-	
	No inspections conducted and documented (if			- 1		True or		
	True, then leave elements 32-39 blank)				1	False		
	Number of Inspections expected if performed	114					\$ B	
	every 7 days:			WATER AND THE				
	Number of Inspections expected if performed bi-	57			1		3 3 3	
	weekly:			SECONDARY.	195	4025448	100	
	If known, number of days of rainfall of >0.5"			TE STATE				
	And incompanies of incompanies of section (1990) and the section of the section of the section (1990) and the section of the section (1990) and the section of the section							
32	Inspections not conducted by qualified personnel		CGP 3.10.D		7	\$50.00	=	
02	inspections not sortidated by quantica personner						11	
33	All areas disturbed by construction activity or used		CGP 3.10.E.		++	\$50.00	=	
33			001 0.10.L.			400.00		
	for storage of materials and which exposed to							
	precipitation not inspected		0000000		++	650.00	-	
34	All pollution control measures not inspected to		CGP 3.10.E.	1		\$50.00	-	
	ensure proper operation				\perp		-	
35	Discharge locations are not observed and		CGP 3.10.E.			\$50.00	=	
	inspected				\perp			
36	For discharge locations that are not accessible,		CGP 3.10.E.			\$50.00	=	
	nearby locations are not inspected							
37	Entrance/exit not inspected for off-site tracking		CGP 3,10.E.		7	\$50.00	=	
3/	Littlancerexit not inspected for on site tracking		3.84 534,558				11	
			CGP 3.10.G		Y	\$50.00	=	
38	Site inspection report does not include: date, name		CGF 3.10.G		1^	Ψ50,00		
	and qualifications of inspector, weather		1 1		11			
- 1	information, location of sediment/pollutant		1					
1	discharge, BMP(s) requiring maintenance, BMP(s)				11			
	that have failed, BMP(s) that are needed,		1		1.1			
	corrective action required including							
	changes/updates to SWPPP and schedule/dates				11			
	(count each omission under 38 as 1 violation)							
	(Count count official and a do 1 visually)							
00	Inspection reports not properly signed/certified		CGP 3.10.G		X	\$50.00	=	
39	(count each failure to to sign/certify as 1 violation)							
	(count each failure to to sign/certify as 1 violation)			1				
			Subt	total Inspect	ions	Deficienci	es	\$2,500
			3000	total inspect	10113	Demoierro	00	44,555
			*					
	AVAILABILITY OF RECORDS	<u> </u>	Toop o to p			\$250.00	1-1	
40	Sign/notice not posted		CGP 3.12.B		+	\$50.00		
1	Does not contain copy of complete NOI		CGP 3.12.B		_			
	Location of SWPPP or contact person for		CGP 3.12.B			\$50.00	=	
- 1	scheduling viewing times where on-site location for							
	SWPPP unavailable not noted on sign							
			S	Subtotal Rec	ords	Deficienci	ies	\$0
	BEST MANAGEMENT PRACTICES							
441	No velocity dissipation devices located at		CGP 3.13.F		7	\$500.00	=	
41		(4	0.01 0.10.1					
	discharge locations or outfall channels to ensure				1			
	non-erosive flow to receiving water		200 00000000000000000000000000000000000	SECURITY STREET, SAVINGS	290 (90)	05410153916159598	6 (52.00)	从市场电视的
42	Control measures are not properly:	Dirt entrance ramp used leading to			min tel	6500.00	100	0.50
	A Selected, installed and maintained	sediment discharge to street	CGP 3.13.A	1	1	\$500.00	7 =	\$50
	one and a section of the delication of the company	==			_		\perp	
	B Maintenance not performed prior to next		CGP 3.6.B			\$250.00) =	
- '	anticipated storm event							
-			PROPERTY OF STREET	GAN CARRE	300			
	(count each failure to select, install, maintain each				3			
	BMP as one violation		CCD 2 42 D	Search Service	100	\$500.00	1-1	
43	When sediment escapes the site, it is not removed		CGP 3.13.B		1	\$500.00	1-1	
	at a frequency necessary to minimize off-site							
	impacts				_		11	
44	Litter, construction debris, and construction		CGP 3.13.C			\$500.00) = 0	
SIST	chemicals exposed to storm water are not	V.			1			
1					1	1		
- 1								
1	prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)			1 1	1		1 1	

45		Stabilization measures are not initiated as soon as		CGP 3.13.D	\$500.00 =	
1		practible on portions of the site where construction				1
		activities have temporarily or permanently ceased				
		within 14 days after such cessation				1
[
		*Exceptions:				AND MYS
		(a) Snow or frozen ground conditions			(1) 10 (A) 10 (
		(b) Activities will be resumed within 14 days				
1						Tal and these
		(c) Arid or Semi-arid areas (<20 inches per		是国际公司的		
46		Common Drainage of 10+ acres does not have a		CGP 3.13.E.1	\$1,000.00 =	
		sedimentation basin for the 2 year, 24 hour storm,				1
		or 3600 cubic ft. storage per acre drained				1
	Α	Where sedimentation basin not attainable, smaller		CGP 3.13.E.2	\$1,000.00 =	- 1
		sediment basins, sediment traps, or erosion		1 1		
	_	controls not implemented for downslope		200.200	\$500.00 =	
	В	Sediment not removed from sediment basin or		CGP 3.6.C	\$500.00	
		traps when design capacity reduced by 50% or				
		more		20001050	0500.00	
47		Common Drainage less than 10 acres does not		CGP 3.13.E.3	\$500.00 =	- 1
		have sediment traps, silt fences, vegetative buffer				
		strips, or equivalent sediment controls for all down				
		slope boundaries (not required if sedimentation				
		sediment basin meeting criteria in 46 above)				
				CGP 3.6.C	X \$500.00 =	
	Α	Sediment not removed from sediment trap when		CGP 3.6.C	\$500.00	
		design capacity reduced by 50% or more			ubtotal BMP Deficiencies	\$500
			management of the comment of the com	51	ubtotal BIMP Deliciencies	\$300
	_	SMALL BUSINESS EVALUATION			Yes	
48		Is the Owner/Operator a Small Business?			165	Late State State State
		A small business is defined by EPA's Small				
		Business Compliance Policy as: "a person,				
		corporation, partnership, or other entity that				
		employs 100 or fewer indiviudals (across all				
		facilities and operations owned by the small				
		business)." The number of employees should				
		be considered as full-time equivalents on an				
		annual basis, including contract employees (see				
		40 CFR 372.3). A full time employee unit is				
		2000 hours worked per year.				
				CERTAIN TRANSPORT		¢2.500
-2				Total	I Expedited Settlement:	\$3,500
		* Requires Corrective Action				
		** NPDES General Permit, 68 FR 39087, issued by	EPA on July 1, 2003, http://cfpub.e	epa.gov/npdes/stormwater/cgp	o.cfm	
		IN DEG Condition on the contract of the contra				

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT/FINAL ORDER** in the matter **HOMELAND DEVELOPERS, INC., DOCKET NO.: CWA-08-2007-0009** was filed with the Regional Hearing Clerk on May 14, 2007.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on May 14, 2007, to:

Dan Passolt Homeland Developers, Inc. P. O. Box 800 West Fargo, ND 58078

And e-mailed to:

Michelle Angel U. S. Environmental Protection Agency Cincinnati Finance Center Accounting Angel.michelle@epa.gov

May 14, 2007

Isla Asternis

Paralegal/Regional Hearing Clerk